

# RAPID DNA ACT

---

---

HEARING  
BEFORE THE  
SUBCOMMITTEE ON CRIME, TERRORISM,  
HOMELAND SECURITY, AND INVESTIGATIONS  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED FOURTEENTH CONGRESS  
FIRST SESSION  
ON  
**H.R. 320**

---

JUNE 18, 2015

---

**Serial No. 114-25**

---

Printed for the use of the Committee on the Judiciary



Available via the World Wide Web: <http://judiciary.house.gov>

---

U.S. GOVERNMENT PUBLISHING OFFICE  
95-120 PDF

WASHINGTON : 2015

---

For sale by the Superintendent of Documents, U.S. Government Publishing Office  
Internet: [bookstore.gpo.gov](http://bookstore.gpo.gov) Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

## COMMITTEE ON THE JUDICIARY

BOB GOODLATTE, Virginia, *Chairman*

F. JAMES SENENBRENNER, JR., Wisconsin	JOHN CONYERS, JR., Michigan
LAMAR S. SMITH, Texas	JERROLD NADLER, New York
STEVE CHABOT, Ohio	ZOE LOFGREN, California
DARRELL E. ISSA, California	SHEILA JACKSON LEE, Texas
J. RANDY FORBES, Virginia	STEVE COHEN, Tennessee
STEVE KING, Iowa	HENRY C. "HANK" JOHNSON, JR., Georgia
TRENT FRANKS, Arizona	PEDRO R. PIERLUISI, Puerto Rico
LOUIE GOHMERT, Texas	JUDY CHU, California
JIM JORDAN, Ohio	TED DEUTCH, Florida
TED POE, Texas	LUIS V. GUTIERREZ, Illinois
JASON CHAFFETZ, Utah	KAREN BASS, California
TOM MARINO, Pennsylvania	CEDRIC RICHMOND, Louisiana
TREY GOWDY, South Carolina	SUZAN DELBENE, Washington
RAUL LABRADOR, Idaho	HAKEEM JEFFRIES, New York
BLAKE FARENTHOLD, Texas	DAVID N. CICILLINE, Rhode Island
DOUG COLLINS, Georgia	SCOTT PETERS, California
RON DeSANTIS, Florida	
MIMI WALTERS, California	
KEN BUCK, Colorado	
JOHN RATCLIFFE, Texas	
DAVE Trott, Michigan	
MIKE BISHOP, Michigan	

SHELLEY HUSBAND, *Chief of Staff & General Counsel*  
PERRY APELBAUM, *Minority Staff Director & Chief Counsel*

---

## SUBCOMMITTEE ON CRIME, TERRORISM, HOMELAND SECURITY, AND INVESTIGATIONS

F. JAMES SENENBRENNER, JR., Wisconsin, *Chairman*  
LOUIE GOHMERT, Texas, *Vice-Chairman*

STEVE CHABOT, Ohio	SHEILA JACKSON LEE, Texas
J. RANDY FORBES, Virginia	PEDRO R. PIERLUISI, Puerto Rico
TED POE, Texas	JUDY CHU, California
JASON CHAFFETZ, Utah	LUIS V. GUTIERREZ, Illinois
TREY GOWDY, South Carolina	KAREN BASS, California
RAUL LABRADOR, Idaho	CEDRIC RICHMOND, Louisiana
KEN BUCK, Colorado	
MIKE BISHOP, Michigan	

CAROLINE LYNCH, *Chief Counsel*  
JOE GRAUPENSPERGER, *Minority Counsel*

## C O N T E N T S

JUNE 18, 2015

	Page
<b>THE BILL</b>	
H.R. 320, the “Rapid DNA Act” .....	2
<b>OPENING STATEMENTS</b>	
The Honorable Sheila Jackson Lee, a Representative in Congress from the State of Texas, and Ranking Member, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations .....	7
<b>WITNESSES</b>	
Amy S. Hess, Executive Assistant Director of Science and Technology, Federal Bureau of Investigation	9
Oral Testimony .....	12
Prepared Statement .....	18
Jody Wolf, Assistant Crime Laboratory Administrator, Phoenix Police Department Crime Laboratory, President, American Society of Criminal Laboratory Directors	20
Oral Testimony .....	22
Prepared Statement .....	24
Natasha S. Alexenko, Founder, Natasha’s Justice Project	
Oral Testimony .....	29
Prepared Statement .....	37
<b>LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING</b>	
Prepared Statement of the Honorable Sheila Jackson Lee, a Representative in Congress from the State of Texas, and Ranking Member, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations .....	7
Prepared Statement of the Honorable Bob Goodlatte, a Representative in Congress from the State of Virginia, and Chairman, Committee on the Judiciary .....	38
<b>APPENDIX</b>	
<b>MATERIAL SUBMITTED FOR THE HEARING RECORD</b>	
Prepared Statement of the Honorable F. James Sensenbrenner, Jr., a Representative in Congress from the State of Wisconsin, and Chairman, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations .....	37
Prepared Statement of the Honorable John Conyers, Jr., a Representative in Congress from the State of Michigan, and Ranking Member, Committee on the Judiciary .....	38



## RAPID DNA ACT

---

THURSDAY, JUNE 18, 2015

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON CRIME, TERRORISM,  
HOMELAND SECURITY, AND INVESTIGATIONS

COMMITTEE ON THE JUDICIARY

*Washington, DC.*

The Subcommittee met, pursuant to call, at 10:11 a.m., in room 2141, Rayburn House Office Building, the Honorable F. James Sensenbrenner, Jr. (Chairman of the Subcommittee) presiding.

Present: Representatives Sensenbrenner, Goodlatte, Chabot, Buck, Jackson Lee, and Conyers.

Staff Present: (Majority) Christopher Grieco, Counsel; Allison Halataei, Parliamentarian & General Counsel; Scott Johnson, Clerk; (Minority) Joe Graupensperger, Minority Counsel; Tiffany Joslyn, Deputy Chief Counsel; Kurt May, Subcommittee Detailee; Eric Williams, Subcommittee Detailee; and Veronica Eligan, Professional Staff Member.

Mr. SENSENBRENNER. The Subcommittee will be in order. Without objection, the Chair will be authorized to declare recesses of the Subcommittee during votes in the House.

Because we're supposed to have votes in about 30 minutes, the Chair will forego his opening statement. We'll ask the other Members not to make opening statements so we can get to the witnesses, because Representative Jackson Lee has got a hard departure time at 11:30. And I think after the first votes we won't be able to get back until that.

[The bill, H.R. 320, follows:]

114TH CONGRESS  
1ST SESSION

# H. R. 320

To establish a system for integration of Rapid DNA instruments for use by law enforcement to reduce violent crime and reduce the current DNA analysis backlog.

---

## IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2015

Mr. SENSENBRENNER (for himself and Mr. SWALWELL of California) introduced the following bill; which was referred to the Committee on the Judiciary

---

## A BILL

To establish a system for integration of Rapid DNA instruments for use by law enforcement to reduce violent crime and reduce the current DNA analysis backlog.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Rapid DNA Act of  
5       2015”.

6       **SEC. 2. DEFINITIONS.**

7       The DNA Identification Act of 1994 (42 U.S.C.  
8       14132) is amended by inserting at the end the following:

1   **"SEC. \_\_\_\_\_. DEFINITIONS.**

2                 "(1) The term 'reference DNA sample' means  
3                 a tissue, fluid, or other bodily sample of an individual  
4                 on which a DNA analysis can be carried out.

5                 "(2) The term 'DNA analysis' means analysis  
6                 of the deoxyribonucleic acid (DNA) identification in-  
7                 formation from a bodily sample.

8                 "(3) The term 'sample-to-answer DNA analysis  
9                 systems' means fully automated systems that after  
10                 input of a DNA sample can perform all necessary  
11                 sample preparation and analysis with no operator  
12                 intervention.

13                 "(4) The term 'qualified agencies' means book-  
14                 ing stations, jails, prisons, detention centers, other  
15                 law enforcement organizations, and facilities outside  
16                 of forensic laboratories that can perform DNA anal-  
17                 ysis using sample-to-answer DNA systems on sub-  
18                 jects meeting current legislative guidelines.

19                 "(5) The term 'operators' means persons  
20                 trained to operate a sample-to-answer DNA sys-  
21                 tem.".

22   **SEC. 3. REVISED QUALITY ASSURANCE AND PROFICIENCY**23                 **TESTING STANDARDS.**

24                 Section 210303 of the DNA Identification Act of  
25                 1994 (42 U.S.C. 14131) is amended—

1                     (1) in subsection (a)(1)(B), by inserting after  
2         “Technology” the following: “, and members from  
3         Federal, State, and local law enforcement agencies.”;

4                     (2) in subsection (a)(1)(C), by inserting after  
5         “DNA” the following: “and separate standards for  
6         testing the proficieny of qualified agencies, and op-  
7         erators, in conducting analyses of DNA samples  
8         using sample-to-answer DNA analysis systems.”;

9                     (3) in subsection (a)(2), by inserting after  
10         “DNA” the following: “DNA and separate stand-  
11         ards for testing the proficiency of qualified agencies,  
12         and operators, in conducting analyses of DNA sam-  
13         ples using sample-to-answer DNA analysis sys-  
14         tems.”;

15                     (4) in subsection (a)(3), by inserting after  
16         “used by forensic laboratories” the following: “and  
17         by qualified agencies conducting analyses of DNA  
18         samples using sample-to-answer DNA analysis sys-  
19         tems.”; and by inserting after “determine whether a  
20         laboratory” the following: “, or agency.”;

21                     (5) in subsection (a)(4), by inserting after “for  
22         purposes of this section” the following: “, and for  
23         qualified agencies the quality assurance guidelines  
24         recommended by the scientific working group on  
25         DNA analysis methods.”;

1                 (6) in subsection (c)(1)(A), by inserting after  
2                 “forensic DNA analyses” the following: “; and qualifi-  
3                 fied agencies conducting analyses of DNA samples  
4                 using sample-to-answer DNA analysis systems.”;

5                 (7) in subsection (c)(1)(B), by inserting after  
6                 “forensic DNA analyses” the following: “; and for  
7                 qualified agencies conducting analyses of DNA sam-  
8                 ples using sample-to-answer DNA analysis sys-  
9                 tems.”;

10                 (8) in subsection (c)(1)(C), by inserting after  
11                 “forensic DNA analyses” the following: “; and qualifi-  
12                 fied agencies conducting analyses of DNA samples  
13                 using sample-to-answer DNA analysis systems.”;  
14                 and

15                 (9) in subsection (c)(2), by inserting after “rou-  
16                 tine evidence” the following: “; and for qualified  
17                 agencies the term ‘blind external proficiency test’  
18                 means a test that is presented to qualified agencies  
19                 through a second agency and appears to the oper-  
20                 ator to involve routine DNA samples for sample-to-  
21                 answer DNA analysis systems.”.

22 **SEC. 4. QUALIFYING AGENCIES.**

23                 Section 210304 of the DNA Identification Act of  
24                 1994 (42 U.S.C. 14132) is amended—

1                     (1) in subsection (b)(2), by inserting after “lab-  
2 oratories” the following: “or qualified agencies”;

3                     (2) in subsection (b)(2)(A), by striking “; and”  
4 at the end and inserting a semicolon; and

5                     (3) in subsection (b)(2), by inserting the fol-  
6 lowing new subparagraph:

7                         “(C) are a qualifying agency engaged in  
8 the intake, processing, booking, detention, or  
9 incarceration of individuals charged or con-  
10 victed of qualifying offenses and the analysis of  
11 DNA samples is conducted on a sample-to-an-  
12 swer DNA analysis system; and”.

13 **SEC. 5. DISTRICT OF COLUMBIA DNA ANALYSIS.**

14                     Section \_\_\_\_\_ of the DNA Identification Act of  
15 1994 (42 U.S.C. 14135b) is amended in subsection (b),  
16 by inserting after “the DNA shall be analyzed” the fol-  
17 lowing: “on a sample-to-answer DNA analysis system”.



Ms. JACKSON LEE. Mr. Chairman.

Mr. SENSENBRENNER. The gentlewoman from Texas.

Ms. JACKSON LEE. This is a very important hearing. I do have an engagement that I will yield a couple of minutes for the importance of this hearing. And I thank you so very much for your courtesies. I would like to have a very brief moment to make a brief statement about this hearing and put the rest of my statement into the record.

Mr. SENSENBRENNER. Without objection.

Ms. JACKSON LEE. Thank you so very much, Mr. Chairman.

First of all, I want to thank you for this stated commitment to the criminal justice reform and the idea of moving hearings forward and legislation forward.

I welcome this distinguished panel, and particularly their thoughts on the role that rapid DNA can play in aiding sexual assault victims and individuals who've been wrongly convicted. I've worked on this issue, and in fact have legislation that we hope will be modified enough to join this particular bill.

Finally, my great State of Texas recognized this massive problem and passed legislation requiring law enforcement agencies to test all untested rape kits in their storage facilities. I've worked with the city of Houston and encouraged the city of Houston, one, to invest in a new DNA lab, and as well be concerned about these issues.

I'd like to ask unanimous consent for the rest of the statement to be put into the record.

Mr. SENSENBRENNER. Without objection.

[The prepared statement of Ms. Jackson Lee follows:]

**Prepared Statement of the Honorable Sheila Jackson Lee, a Representative in Congress from the State of California, and Ranking Member, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations**

Thank you, Mr. Chairman. As the Ranking Member of the Subcommittee on Crime, Terrorism, Homeland Security, and Investigations, I extend my gratitude to you for convening a hearing on this critically important topic.

I welcome our distinguished panel of witnesses and look forward to their testimony, in particular their thoughts on the role that rapid DNA can play in aiding sexual assault victims and individuals who have been wrongly convicted.

DNA technology has revolutionized the criminal justice system by significantly decreasing the amount of time it takes law enforcement to investigate and prosecute criminal offenders.

Equally important, DNA technology has effectively led to the exoneration of innocent suspects, and has freed men and women who were convicted of crimes they did not commit.

Due to the effectiveness of DNA technology, there has been increased demand for its use.

This demand is good, but it has resulted in a substantial backlog of DNA evidence collected from sexual assault victims—known as “rape kits”—nationwide. And the backlog is growing.

Backlogged evidence is neither processed in forensic laboratories nor is it entered into the FBI's Combined DNA Index System (CODIS). This means law enforcement may have in its possession evidence that can prevent future crime, but that evidence is instead collecting dust.

Reducing backlogs of untested DNA evidence is vitally important to survivors of sexual violence, as I'm confident Ms. Natasha Alexenko (Alex-ANKO) will attest to today.

Because DNA evidence plays a critical role in identifying rapists and other violent criminals, it is crucial that it be examined in a timely manner.

This committee, with my co-sponsorship, worked diligently to reauthorize the Debbie Smith Act last Congress.

This Act provides funding to handle the hundreds of thousands of rape kits that are sitting in evidence rooms awaiting processing.

It is completely unacceptable for DNA evidence from sexual assaults to sit untested for months—or longer—while rapists remain free to harm other potential victims.

My great state of Texas recognized this massive problem and passed legislation requiring law enforcement agencies to test all untested rape kits in their storage facilities.

As of 2013, Texas officials estimated there to be approximately 20,000 untested kits statewide. Out of the 20,000 untested kits, 6,663 were in the greater Houston area.

I am pleased to report that as of February of this year, Houston completed testing all 6,663 rape kits and uploaded the results to CODIS. Houston was able to do this using \$4.4 million in federal grant and city funding.

To-date, the testing has yielded 850 matches in CODIS and resulted in the prosecution of 29 criminal offenders.

In addition to delaying justice for rape survivors, the backlog halts the exoneration of innocent people and keeps the wrongfully convicted behind bars.

For example, Michael Phillips of Dallas spent 12 years of his life in prison for a crime he did not commit.

At the age of 57, Mr. Phillips was a registered sex offender, wheelchair-bound from sickle cell anemia, and residing in a nursing home when he received news that Dallas County prosecutors established his innocence through DNA evidence.

Mr. Phillips was the first person exonerated through the use of systematic DNA testing, which was proactively conducted by the prosecutor's office—without a request by Mr. Phillips.

Although Mr. Phillips knew he was innocent, he pled guilty anyway as part of a plea bargain.

After Mr. Phillips' innocence was established, he stated that when he was convicted “. . . it felt like slavery was still going strong for me . . . the deck was stacked against me from *Jump Street*—like 100-to-1.”

As a strong advocate for victims of rape, and for persons who have been unjustly made to answer for crimes they did not commit, I am pleased that we are examining increased use of Rapid DNA.

Rapid DNA machines are automated and complete work that otherwise must be done in a more time-consuming manner by labs.

Again, thank you for holding this important hearing and I look forward to the testimony of our distinguished panel of witnesses.

---

Ms. JACKSON LEE. I thank you. In the second that I have, I would like to indicate that we all have been overwhelmed by the horrific tragedy of persons being killed in their house of worship. I was moved to tears late last evening and continue to be, as I'm well aware of the African Methodist Episcopal Church. We pray for their families, and at this time we pray for the solution and we pray for the fact that we all can live in this great Nation in peace and recognition of each other's human dignity.

I'm going to take a moment and would ask for a moment of silence for those who were lost in South Carolina.

Mr. SENSENBRENNER. Without objection.

Ms. JACKSON LEE. Thank you very much.

Mr. SENSENBRENNER. Okay. We have a very distinguished panel today, and I'll begin by swearing in our witnesses before introducing them.

If you would please all rise.

Do you solemnly swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Let the record show that all of the witnesses answered in the affirmative.

I'm going to be giving an abbreviated introduction of each of the witnesses. Then you'll be recognized for 5 minutes.

Amy Hess is the executive assistant director of science and technology at the FBI. Ms. Jody Wolf is the assistant crime laboratory administrator for the Phoenix Police Department Crime Laboratory. And Ms. Natasha Alexenko is the founder of Natasha's Justice Project, which is a nonprofit whose mission is to eliminate the Nation's rape kit backlog crisis.

Without objection, your written testimony will be put in the record, and each of you will be recognized for 5 minutes. And I think you know what the green, yellow, and, particularly, the red light mean.

Ms. Hess.

**TESTIMONY OF AMY S. HESS, EXECUTIVE ASSISTANT DIRECTOR OF SCIENCE AND TECHNOLOGY, FEDERAL BUREAU OF INVESTIGATION**

Ms. HESS. Thank you. Good morning, Chairman Sensenbrenner, Ranking Member Jackson Lee, and Members of Subcommittee. Thank you for the opportunity to provide an update today on our efforts relating to rapid DNA and for your continued support of the men and women of the FBI.

Over the last three decades we've been developing our Combined DNA Index System, or CODIS program, in order to better assist Federal, state, local, and international forensic laboratories. As new DNA technologies have emerged, we have been vigilant in demanding they provide the quality and integrity expected of a nationwide law enforcement database, and must be implemented pursuant to the FBI's Quality Assurance Standards in accordance with the Federal DNA Identification Act of 1994.

One of the underlying concepts of CODIS was to create a database of the DNA profiles of convicted offenders and use it to identify suspects for crimes in which there are no suspects. But this tool, which was initially expected to benefit the investigation of sexual assault cases, has proven to have broader applications. States observed this firsthand and sought to expand coverage of their databases beyond convicted sexual offenders; first, to individuals convicted of other violent felonies, then to all felony offenders, and now to persons arrested for sexual offenses, or in many states persons arrested for any felony offense.

The FBI Laboratory works closely with the DNA and CODIS communities, as well as other stakeholders, such as laboratory accrediting bodies, law enforcement, defense attorneys, and prosecutors, to evaluate new technologies and procedures. Any efforts to enhance CODIS involve significant consultation with the affected stakeholders, software development, testing, evaluation, implementation planning, and user training.

Today CODIS is installed in approximately 200 forensic DNA laboratories nationwide. The FBI provides the CODIS software to laboratories which are accredited, which follow the FBI's Quality Assurance Standards, that are audited annually, and that agree to comply with the Federal DNA Act for participation in the National DNA Index System, or NDIS.

To date, CODIS has generated over 285,000 investigative leads for law enforcement. All 50 States, Puerto Rico, the U.S. Army's Criminal Investigation Laboratory, and the FBI contribute DNA

records to and participate in NDIS, which contains almost 14 million offender or arrestee DNA records and over 630,000 forensic or crime scene DNA records.

The FBI uses the term “Rapid DNA analysis or technology” to describe the fully automated, hands-free process of developing a CODIS Core Short Tandem Repeater, or STR, profile from a reference sample buccal swab. The process consists of automated extraction, amplification, separation, detection, and allele calling without human intervention. Our objective is to generate a CODIS-compatible DNA profile and to search these profiles within 2 hours against unsolved crime profiles while an arrestee is in police custody.

Rapid DNA technology has been designed for use within and outside the forensic DNA laboratory, as the instruments are self-contained machines which require no human intervention beyond the loading of the DNA samples and analysis cartridges.

With legislative authority, the FBI envisions Rapid DNA integration occurring in two phases. Phase one involves the booking station CODIS enrollment and searching of Rapid DNA profiles, which will eliminate the weeks to months it currently takes for arrestee samples to be mailed, received, inventoried, and analyzed for registration in the CODIS system. Phase two is the hit notification to booking stations and investigative agencies, which is expected to conserve valuable investigative resources and identify perpetrators before they are released back into their communities at the completion of the normal booking process.

Since 2008 we've partnered with the Departments of Defense and Homeland Security in the development of point-of-collection DNA analysis for the production of CODIS DNA profiles within a 2-hour period. In addition, the Scientific Working Group on DNA Analysis Methods empaneled a Rapid DNA Committee to evaluate whether additional quality measures were needed for records produced by Rapid DNA instruments. Based on their recommendations, the FBI issued an addendum to our Quality Assurance Standards to provide a foundation for the implementation of Rapid DNA within accredited forensic DNA laboratories.

The Federal DNA Act currently requires that DNA records maintained at NDIS be generated by accredited laboratories in compliance with the FBI's Quality Assurance Standards. But Rapid DNA technology has been designed for use by law enforcement agencies at the point of booking. Thus, statutory authorization for the use of FBI-approved Rapid DNA instruments by criminal justice agencies would be needed before the DNA records generated at police booking stations can be searched at NDIS.

In addition to the legislative, validation, testing, evaluation, standards, and software issues, we must address issues relating to NDIS approval and certification of the instruments, as well as training of law enforcement personnel. These issues must be resolved prior to implementation so this new technology is used in a manner which maintains the quality, integrity, and sterling reputation of our database.

In conclusion, CODIS has demonstrated its value as an investigative tool for 25 years, and we are committed to maintaining its effectiveness. The FBI is also committed to identifying new tech-

nologies which could enhance the CODIS program, and we are pursuing Rapid DNA technology because we believe the efficiencies obtained from the real-time analysis of an arrestee's DNA sample has tremendous potential to improve public safety and focus law enforcement investigative resources.

Thank you.

[The prepared statement of Ms. Hess follows:]



# Department of Justice

---

## STATEMENT OF

AMY S. HESS  
EXECUTIVE ASSISTANT DIRECTOR  
SCIENCE AND TECHNOLOGY BRANCH  
FEDERAL BUREAU OF INVESTIGATION

## BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM, HOMELAND SECURITY  
AND INVESTIGATIONS  
SUBCOMMITTEE ON THE JUDICIARY  
U.S. HOUSE OF REPRESENTATIVES

## FOR A HEARING CONCERNING

FBI'S PLANS FOR THE USE OF RAPID DNA TECHNOLOGY IN CODIS

## PRESENTED

JUNE 18, 2015

**Statement of Amy S. Hess  
Executive Assistant Director, Science and Technology Branch  
Federal Bureau of Investigation  
Before the Subcommittee on Crime, Terrorism,  
Homeland Security and Investigations  
Committee on the Judiciary  
U.S. House of Representatives  
June 18, 2015**

Good morning Chairman Sensenbrenner, Ranking Member Jackson Lee, and members of the Subcommittee. Thank you for the opportunity to provide an update on the Federal Bureau of Investigation's (FBI) efforts relating to Rapid DNA to increase the speed and effectiveness of Combined DNA Index System (CODIS) and the National DNA Index System (NDIS).

Over the last three decades, the FBI has been developing its CODIS program to assist Federal, State, Local, and international forensic laboratories in databasing their DNA records for law enforcement investigative purposes. While initial efforts focused on Restriction Fragment Length Polymorphism (RFLP) technology, the CODIS program has expanded to incorporate Polymerase Chain Reaction Short Tandem Repeat (PCR STR) and mitochondrial DNA technologies as each new technology matured and provided the DNA quality demanded of a nationwide law enforcement database. Each of these technologies was implemented pursuant to the national Quality Assurance Standards (QAS) issued by the FBI Director in accordance with the Federal DNA Identification Act of 1994 ('Federal DNA Act,' 42 U.S.C. § 14131 et seq.).

Our interest in incorporating new developments and enhancing the effectiveness of CODIS is balanced against the importance of preserving this important investigative tool and the quality and integrity of the National DNA Index System (NDIS). A brief update on our CODIS program and the National DNA Index System will provide a background for the FBI's efforts related to Rapid DNA technology.

*The Combined DNA Index System (CODIS) & National DNA Index System (NDIS)*

The acronym "CODIS" describes not only the software used to maintain and operate law enforcement DNA databases, but also the FBI's program of software support and training for Federal, State, Local, and international forensic laboratories. The acronym "NDIS" stands for the National DNA Index System or National DNA database, the highest level of the CODIS hierarchy (National, State, and Local).

One of the underlying concepts behind the development of CODIS was to create a database of a State's convicted offender profiles and use it to identify suspects for crimes in which there are no suspects. Historically, forensic examinations were performed by laboratories if evidence was available and there was a suspect in the case. Beginning in the early 1990s, states began to create databases of the DNA profiles of convicted sex offenders and other violent criminals. The databases allowed Federal laboratories to analyze those cases without suspects and search those DNA profiles against the database of convicted offenders and other crime

scenes and determine if a serial or recidivist rapist was involved. It is expected that this new tool will enable forensic laboratories to generate investigative leads or identify suspects in cases, such as stranger sexual assaults, where there may not be any suspects.

An identification tool that was initially thought to benefit the investigation of sexual assault cases has proven to have wider application in the investigation and prosecution of crimes. States have observed this firsthand with their CODIS hits and sought to expand coverage of their databases beyond convicted sexual offenders - first to more serious violent felony offenders, then all felony offenders, and now to persons arrested for sexual offenses and, in many states, persons arrested for any felony offense. Currently, twenty-six states, the Federal government, the Department of Defense, and Puerto Rico upload DNA profiles of various categories of arrestees to NDIS. Twelve states are collecting DNA samples from all felony arrestees and another fifteen states are authorized to collect DNA samples from persons arrested for serious felonies, such as murder, manslaughter, kidnapping, sexual assault, robbery, and burglary. Another dozen states have legislation pending to authorize the collection of DNA samples from arrestees or to expand their current coverage of arrestee sample collections.

A recent hit to a 20-year-old sexual assault illustrates the value in expanding the law enforcement DNA collection programs: A sexual assault evidence kit collected immediately after a 1995 assault in New York City's West Village was tested in 2001, and the resulting DNA profile was entered into CODIS. The prosecutor's office issued a "John Doe" indictment in 2003. This January, the alleged perpetrator was arrested in Florida for an aggravated battery charge. The alleged perpetrator's sample collected at the time of his arrest matched to the 1995 sexual assault and he has been extradited to New York. In this example, the expanded scope of collection, the commitment to analyze sexual assault evidence kits and the use of a John Doe indictment cooperatively resulted in information necessary for the investigation/prosecution of this serious offense.

The CODIS software is used to maintain these DNA databases and search the DNA profile against the DNA profiles of convicted offenders/arrestees and other crime scenes. For example, a DNA profile of a suspected perpetrator is developed from the sexual assault evidence kit. If there is no suspect in the case or if the suspect's DNA profile does not match that of the evidence, the laboratory will search the DNA profile against the Convicted Offender and Arrestee Indices. If there is a match in the Convicted Offender or Arrestee Index, the laboratory will obtain the identity of the suspected perpetrator. If there is no match in the Convicted Offender or Arrestee Index, the DNA profile is searched against the crime scene DNA profiles contained in the Forensic Index. If there is a match in the Forensic Index, the laboratory has potentially linked two or more crimes together and the law enforcement agencies involved in the cases are able to share the information obtained on each of the cases.

The FBI Laboratory works closely with the DNA and CODIS communities as well as our other stakeholders, such as laboratory accrediting bodies, law enforcement, defense attorneys, and prosecutors, to evaluate new technologies and procedures for the CODIS program (e.g., familial searching, NDIS enhancements, Rapid DNA). Over the years, the CODIS software has been updated to include the collection and maintenance of additional data elements to facilitate missing person searches, upgraded telecommunications circuits, and routers, to name a few.

Many of these CODIS technologies and procedures included consultation with the affected stakeholders, software development, testing, evaluation, implementation planning, and user training; processes that the FBI continues to follow for Rapid DNA.

CODIS is installed in approximately 200 Federal, State, and Local forensic DNA laboratories nationwide. The FBI provides the CODIS software to public forensic DNA laboratories that are accredited, that follow the FBI Director's Quality Assurance Standards, that are audited annually, and that agree to comply with the Federal DNA Act for participation in NDIS. To date, CODIS has generated over 285,000 investigative leads for law enforcement. All 50 states, the FBI, the U.S. Army Criminal Investigation Laboratory, and Puerto Rico contribute DNA records to and participate in the National DNA Index System. As of June 1, 2015, NDIS contains almost 14 million offender/arrestee DNA records and over 630,000 forensic (crime scene) DNA records.

#### *Rapid DNA Analysis/Technology and CODIS*

The FBI uses the term “Rapid DNA analysis/technology” to describe the fully automated (hands-free) process of developing a CODIS Core Short Tandem Repeat (STR) profile from a reference sample buccal swab. The ‘swab in – profile out’ process consists of automated extraction, amplification, separation, detection, and allele calling without human intervention. The FBI’s objective for Rapid DNA technology is to generate a CODIS-compatible DNA profile and to search these arrestee DNA profiles within two hours against unsolved crime (forensic) DNA while an arrestee is in police custody. Rapid DNA technology has been designed for use within and outside the forensic DNA laboratory, as the Rapid DNA instruments are self-contained machines that require no human intervention beyond the loading of the DNA samples and analysis cartridges into the machines.

Following any legislative authority, the FBI envisions Rapid DNA integration occurring in two-phases. Phase 1 involves the booking station CODIS enrollment and searching of Rapid DNA profiles. Phase 2 of integration is the direct “hit notification” to booking stations and investigative agencies. The initial (Phase 1) impact of Rapid DNA analysis in the booking station will be the elimination of the weeks-to-months it currently takes for arrestee samples to be mailed, received, inventoried, and analyzed for registration in the CODIS system. The eventual real time notification (Phase 2) of an arrestee’s DNA hit to an unsolved case is expected to conserve valuable investigative resources and focus them on specific arrestees. Equally as important will be the protection of the public when perpetrators are identified at the point of collection before being released back into their communities at the completion of the normal booking process. Rapid DNA CODIS registration will not lengthen the booking process.

The FBI initially established a Rapid DNA initiative in 2006 and partnered in 2008 with the Departments of Defense and Homeland Security on the development of point-of-collection DNA analysis for the production of CODIS DNA profiles (containing the 13 CODIS Core Loci) within a two-hour period. In 2010, the Criminal Justice Information Services’ Advisory Policy Board (‘CJIS APB’, a Federal Advisory Committee established by the FBI) established a Rapid DNA Task Force, and the FBI’s Rapid DNA Program Office was created within the FBI Laboratory Division to coordinate the Laboratory and CJIS Division’s Rapid DNA activities.

These groups have provided the FBI with recommendations that we have adopted for our Rapid DNA implementation, such as the use of the State Identification Number (SID) as the cornerstone identifier for Rapid DNA profiles and the addition of a data element to an individual's criminal history record to indicate whether there is a DNA profile already in CODIS, information which will assist States in determining if a DNA sample should be collected at arrest.

For implementation within an accredited forensic laboratory, the Scientific Working Group on DNA Analysis Methods (SWGDAM) empanelled a Rapid DNA Committee to review and evaluate whether additional quality measures were necessary to ensure the accuracy and reproducibility of the records produced by the Rapid DNA instruments. Based upon recommendations received from SWGDAM, the FBI issued an Addendum to the Quality Assurance Standards for DNA Databasing Laboratories, required by Federal law, providing a foundation for implementation of Rapid DNA within an accredited forensic DNA laboratory.

The FBI Laboratory is also developing CODIS software modifications to facilitate the searching of Rapid DNA instrument-generated DNA profiles against forensic DNA records. Along with these development efforts, steps are being taken to identify information technology enhancements needed for State criminal history record repositories, booking stations, regional, county, and local jails, to comply with FBI CODIS requirements for uploading DNA records generated at the time of arrest. As noted previously, Rapid DNA technology has been designed for both laboratories (approximately two hundred forensic DNA laboratories participating in CODIS) as well as law enforcement booking agencies across the nation (potentially thousands of law enforcement booking facilities).

The CJIS and Laboratory Divisions are working together to determine the interfaces necessary for the integration of the Rapid DNA components into the criminal history record and booking station infrastructure originally established for the Automated Fingerprint Identification System (AFIS). As one example, integration of the Rapid DNA instruments with CODIS and Arrestee State Identification Numbers is necessary to facilitate the notification of CODIS hits to law enforcement agencies in order to act on investigative leads. The FBI Laboratory's Rapid DNA Program Office is working with the CJIS APB's Rapid DNA Task Force to plan Rapid DNA workflows and develop requirements for implementation.

#### *Implementation Next Steps*

The Federal DNA Act requires that the DNA records maintained at NDIS be generated by accredited laboratories in compliance with the FBI Director's Quality Assurance Standards (42 U.S.C. §14132(b)). Rapid DNA technology has been designed for use by law enforcement agencies at the point of booking for integration following live scan fingerprint enrollment of an arrestee. Thus, statutory authorization for the use of FBI approved Rapid DNA instruments by criminal justice agencies would be needed before the DNA records generated at police booking stations can be searched at NDIS.

A further phase of the efforts described above, which we hope to achieve within the next several years, will include pilot projects within major metropolitan police departments to test and

evaluate the potential use of these Rapid DNA instruments and the searching of these DNA records through CODIS during the booking process, should the pilot programs be successful. In addition to legislative, validation, testing, evaluation, standards, and software issues, there are a number of issues relating to NDIS approval/certification of Rapid DNA instruments and training of law enforcement personnel. These issues must be resolved prior to implementation so that this new technology is used in a manner that maintains the quality, integrity, and "sterling reputation" of CODIS and the National DNA Index System, as emphasized in previous statements by the FBI Director before the House Appropriations Committee.

If Rapid DNA technology can be implemented responsibly at a broader scale, the use of these instruments is expected to alleviate the burden on State DNA laboratories for the analysis of arrestee DNA samples. As evidenced by the separate standards for databasing and forensic DNA laboratories, however, there are differences between reference arrestee/offender samples and crime scene (forensic) samples.

#### *Conclusion*

CODIS has demonstrated its use as an investigative tool for twenty-five years. The FBI is committed to the effectiveness of CODIS and we are investigating the potential to accommodate Rapid DNA technology in CODIS because we believe that the efficiencies obtained from the real time analysis of an arrestee's DNA sample has tremendous potential to improve public safety by focusing law enforcement investigative resources and assisting in identifying putative perpetrators before they are released from custody. Incorporating Rapid DNA technology in CODIS will involve a much larger segment of the criminal justice community than has previously been engaged with the CODIS Program and we are making every effort to include representatives of this new constituency (law enforcement booking stations) in the design, planning, and implementation stages of this effort.

We appreciate the opportunity to appear before this Subcommittee and provide this update on CODIS and our efforts to incorporate Rapid DNA technology into the CODIS program. I am happy to answer any questions you may have. Thank you.

Mr. SENSENBRENNER. Thank you.  
Ms. Wolf.

**TESTIMONY OF JODY WOLF, ASSISTANT CRIME LABORATORY ADMINISTRATOR, PHOENIX POLICE DEPARTMENT CRIME LABORATORY, PRESIDENT, AMERICAN SOCIETY OF CRIMINAL LABORATORY DIRECTORS**

Ms. WOLF. Good morning, Chairman Sensenbrenner, Ranking Member Jackson Lee, and Members of the Committee. My name is Jody Wolf, and I am the president of the American Society of Crime Laboratory Directors. On behalf of the 600 laboratory directors represented by ASCLD and over 15,000 crime laboratory practitioners represented by the Consortium of Forensic Science Organizations, I would like to thank you for the opportunity to discuss the topic of Rapid DNA technology and provide comments on House Resolution 320, the Rapid DNA Act of 2015.

The introduction of Rapid DNA technology has been an exciting one for the forensic science community. Several of our members helped with the initial technology development, and several more are currently participating in pilot programs to evaluate how best to implement this novel technology within the criminal justice system.

Rapid DNA is designed to deliver a DNA profile from samples such as known reference standards within a few hours, and is most commonly associated with the placement in law enforcement booking stations for the analysis of arrestee samples and entry into CODIS. The potential of this technology is promising, and both ASCLD and CFSO support the continued development of this novel application.

As I stated earlier, several of our members are currently participating in pilot programs and validation studies to develop best practices for the widespread deployment of these systems. Overviews of these programs and studies are provided in the written testimony offered to this Committee. As policymakers anticipate the implementation of this technology, it is critical the following issues are considered.

First, rigorous validations performed by crime laboratory scientists and researchers are critical to demonstrating the efficacy of this technology and not marketing materials. Currently, these devices are best suited for use with single-source, high-quantity biological samples such as reference standards of blood or saliva from known individuals, thus limiting its usefulness for complex crime scene samples of more than one person.

These instruments also currently can't analyze trace amounts of DNA. Consequently, these instruments are not designed for the routine testing of evidence types found in rape kits and will not help with the reduction of rape kit backlogs.

Secondly, this technology must be compliant with current industry standards and guidelines as provided by the FBI and the Scientific Working Group on DNA Analysis Methods, thus ensuring its operability with the CODIS database. SWGDAM and the FBI Quality Assurance Standards for Forensic DNA Testing Laboratories have provided best practices and standards for almost 20 years. ASCLD looks to these groups for guidance with Rapid DNA tech-

nologies, and we encourage vendors to seek full compliance with these standards or any new standards or guidelines developed by this group.

Third, ASCLD recommends that a careful cost-benefit analysis be performed prior to its widespread implementation. The purchase price for most Rapid DNA devices currently exceed \$200,000, and the estimated per sample cost is \$250. By comparison, FORE-SIGHT, a national study of crime laboratory operational costs, led by the West Virginia University, reported the median cost is less than \$85 per sample using traditional laboratory methods for the DNA analysis of a database or known reference standard.

Clearly, the current costs of traditional DNA databasing is significantly less than using the Rapid DNA technology. As a result, funding levels for existing grant programs aimed at increasing analytical capacity for crime laboratories and reducing backlogs will need to be increased to allow crime laboratories and their stakeholders the opportunity to best meet the needs of their jurisdictions for DNA analysis.

Finally, and perhaps most importantly for crime laboratories and practitioners, is the technology transfer from the vendors to operational facilities. While the FBI is currently working on supporting the IT infrastructure necessary for its implementation in booking stations, it is important that other measures are also taken to validate this technology in the community.

ASCLD has been at the forefront of these activities and presented three Rapid DNA webinars addressing these topics during the past year, including Rapid DNA presentations during its annual symposiums, and has charged its Forensic Research Committee with developing guidance and best practices for its membership.

ASCLD and CFSO support Rapid DNA legislation, with revision, in order to ensure the existing integrity and security of the National DNA Database system is maintained, to authorize the FBI as the Federal law enforcement agency tasked with oversight of CODIS and establishing forensic DNA Quality Assurance Standards, and include a definition of Rapid DNA analysis and instruments utilizing NDIS-approved analytical platforms, chemistries, and expert interpretation systems.

As we reviewed H.R. 320, we had concerns with some of the definitions, the practical implementation of blind proficiency testing, and the protection of confidential information within the database. ASCLD and CFSO stand ready to aid in moving the legislation forward, once modified, for the universal adoption of this technology.

In closing, Mr. Chairman, we encourage the development of partnerships between law enforcement agencies, crime laboratories, and regulatory agencies for a careful and well thought out approach to the implementation to this promising technology. We believe that a methodical and measured approach to its deployment is vital to the criminal justice system in order to deliver the best forensic science possible.

Again, I thank the Committee for its time today, and I would be happy to answer any questions.

[The testimony of Ms. Wolf follows:]

June 18, 2015

Statement for the Record of  
Jody Wolf  
Asst. Crime Laboratory Administrator, Phoenix Police Department Crime Laboratory  
President, American Society of Crime Laboratory Directors (ASCLD)  
President, International Forensic Strategic Alliance (IFSA)

On  
**The Widespread Adoption of Rapid DNA Technology in the United States**

Before the House Judiciary Committee  
Subcommittee on Crime, Terrorism, Homeland Security, and Investigations  
Washington, DC

Good morning Chairman Sensenbrenner, Ranking Member Jackson Lee, and members of the Committee: My name is Jody Wolf and I am the President of the American Society of Crime Laboratory Directors. On behalf of the 600 laboratory directors represented by ASCLD and over 15,000 crime laboratory practitioners represented by the Consortium of Forensic Science Organizations I would like to thank you for the opportunity to discuss the topic of Rapid DNA technology and provide comments on H.R. 320, the Rapid DNA Act of 2015.

The introduction of Rapid DNA technology has been an exciting one for the forensic science community. Several of our members helped with the initial technology development and several more are currently participating in pilot programs to evaluate how best to implement this novel technology in the criminal justice system. Rapid DNA is designed to deliver a DNA profile from samples such as known reference standards within a few hours and is most commonly associated with the placement in law enforcement booking stations for the analysis of arrestee samples and entry into CODIS. The potential of this technology is promising and both ASCLD and CFSO support the continued development of this novel application.

As I stated earlier, several of our members are currently participating in pilot programs and validation studies to develop best practices for the widespread deployment of these systems. Overviews of these programs and studies are provided in the written testimony offered to this committee. As policy makers anticipate the implementation of this technology, it is critical the following issues are considered.

- First, rigorous validations performed by crime laboratory scientists and researchers are critical to demonstrating the efficacy of this technology and not marketing materials. Currently, these devices are best suited for use with single-source, high quantity biological samples such as reference standards of blood or saliva from known individuals, thus limiting its usefulness for complex crime scene samples of more than one person. These instruments also currently can't analyze trace amounts of DNA. Consequently, these instruments are not designed for the routine testing of evidence types found in rape kits and will not help with the reduction of rape kit backlogs.
- Secondly, this technology must be compliant with current industry standards and guidelines as provided by the FBI and the Scientific Working Group on DNA Analysis Methods (SWGDAM) thus ensuring its operability with the CODIS database.

SWGDAM and the FBI Quality Assurance Standards for Forensic DNA Testing Laboratories have provided best practices and standards for forensic DNA testing for almost 20 years. ASCLD looks to these groups for guidance with rapid DNA technologies and we encourage vendors to seek full compliance with these standards or any new standards or guidelines developed by this group.

- Third, ASCLD recommends that a careful cost/benefit analysis be performed prior to its widespread implementation. The purchase price for most Rapid DNA devices currently exceeds \$200,000 and the estimated per sample cost is \$250. By comparison, FORESIGHT, a national study of crime laboratory operational costs led by the West Virginia University, reported the median cost is less than \$85 per sample using traditional laboratory methods for the DNA analysis of a database or known reference standard. Clearly, the current cost of traditional DNA databasing is significantly less than using the Rapid DNA technology. As a result, funding levels for existing grant programs aimed at increasing analytical capacity for crime laboratories and reducing backlog will need to be increased to allow crime laboratories and their stakeholders the opportunity to best meet the needs of their jurisdictions for DNA analysis.
- Finally and perhaps most importantly for crime laboratories and practitioners is the technology transfer from the vendors to operational facilities. While the FBI is currently working on supporting the IT infrastructure necessary for its implementation in booking stations, it is important that other measures are also taken to validate this technology in the community. ASCLD has been at the forefront of these activities and presented three rapid DNA webinars addressing these topics during the past year, included Rapid DNA presentations during its annual symposium and has charged its Forensic Research Committee with developing guidance and best practices for our membership.

ASCLD and CFSO support Rapid DNA legislation *with revision* in order to ensure the existing integrity and security of the National DNA Database system is maintained, to authorize the FBI as the federal law enforcement agency tasked with oversight of CODIS and establishing forensic DNA quality assurance standards, and include a definition of Rapid DNA analysis and instruments utilizing NDIS approved analytical platforms, chemistries, and expert interpretation systems. As we reviewed HR 320, we had concerns with some of the definitions, the practical implementation of blind proficiency testing, and the protection of confidential information within the database. ASCLD and CFSO stand ready to aid in moving the legislation forward once modified for the universal adoption of this technology and has included an in-depth review of HR 320 in the written testimony offered to this committee with recommended changes to reflect our experience with the pilots our Members have participated in.

In closing, Mr. Chairman, we encourage the development of partnerships between law enforcement agencies, crime laboratories, and regulatory agencies for a careful and well thought out approach to the implementation of this promising technology. We believe that a methodical and measured approach to its deployment is vital to the criminal justice system in order to deliver the best forensic science possible.

Again, I thank the committee for its time today and I would be happy to answer any questions.

Mr. SENSENBRENNER. Thank you.  
Ms. Alexenko.

**TESTIMONY OF NATASHA S. ALEXENKO, FOUNDER,  
NATASHA'S JUSTICE PROJECT**

Ms. ALEXENKO. Thank you, Chairman Sensenbrenner, Ranking Member Jackson Lee, and Members of the Committee. I cannot tell you how honored and humbled I am to be here today before you speaking and sharing my testimony. I'm here, of course, representing myself, but I also bring with me the strength and determination of so many survivors of sexual assault who are aware I am here speaking before you today, and we all ask the same thing, and that is please use our cases as a cautionary tale so that we can end this violence and to use anything that we can to make our country a safer place.

I'm a survivor of sexual assault. At 20 years old I was raped, robbed, and sodomized at gunpoint by an unknown assailant. It was devastating. Not only did it devastate me, but it changed my life forever. It affected my mother, the individuals that lived in my apartment building, my future friends. It basically completely altered the course of my life.

I submitted to a rape kit test, which is basically a very invasive gynecological exam. I knew that it was my duty as a citizen to aid law enforcement in any way that I could to put this perpetrator behind bars. Unbeknownst to me, my rape kit sat collecting dust for 9½ years, along with 17,000 other rape kits in New York City. And we know now this is just the tip of the iceberg, certainly a situation that's occurring throughout the Nation.

But what happened in the nearly 15 years before the man that raped and robbed me, Victor Rondon, was caught, when his profile was finally, after nearly 15 years, uploaded to CODIS and a match was made to the DNA in my rape kit, this man was a mobile serial predator. He committed a variety of crimes. He wasn't a specialist. He didn't stick to sexual assault. He was a burden on law enforcement, on human dignity, he was a burden on taxpayers, all because we did not catch him in time.

And essentially this story remains true for the same of all my other survivors that I know, and that is criminals are exploiting us in more ways than one, and serial predators move to avoid, using our time delay as a weakness. They are using our time delay to get away with things. Victor Rondon committed crimes in eight different States across this country and created a host of victims in his wake. He's currently behind bars, thanks to the dedication of law enforcement, and I'm proud to have been the complaining witness and testify against him. But I will let you know that after all those years, even 15 years later, the first time I saw Victor Rondon in all that time, I fainted at the sight of him, because to a survivor time has many meanings. It stands still in one way, and 30 days can seem like a very long time.

I feel like public safety should always take priority. I feel that we have a way to eliminate a lot of the crimes that are occurring. I feel, again, that if you don't take my tale as a cautionary tale, then it was all for nothing. It's so important for me to share my story. It's not easy. It's not easy to stand here and talk about the

fact that I was raped, robbed, and sodomized, not a story that I enjoy telling, but if it helps take one perpetrator off the street, then it's certainly worth it.

Now, of course I'm not a law enforcement professional, I'm not a scientist, and I do not possess a law degree, and I cannot speak specifically to the language in this provision. But what I can tell you as a survivor is DNA testing is essential and that time matters. For nearly 15 years I was on a constant state of high alert knowing that this violent criminal was walking the streets. And I have to tell you that I faced a lot of guilt thinking that I didn't 100 percent do my part for the citizens of this country to find this perpetrator and put him way.

Today I'm here to talk about the other side of the DNA Database system and crucial new technologies that may reduce the amount of time needed to bring answers to victims of crime and safety to the citizens of this country. I hope that you will take this seriously. I have complete faith in the FBI, and I know that their testing methodology is stringent. We have to respect this technology. But it's important to implement methods that will no longer delay justice.

I thank you for your time, and, once again, I am very honored to be here today.

[The testimony of Ms. Alexenko follows:]

Testimony of Natasha S. Alexenko

Before the US House Judiciary Subcommittee on Crime And Terrorism

"Rapid DNA Technology – HR 320"

June 18, 2015

Chairman Sensenbrenner, Ranking Member Jackson Lee, Members of the Committee, thank you for inviting me to speak to you today. My name is Natasha Alexenko, and I am deeply honored to be in front of your Committee today to talk about crucial advances in DNA technology. As both a survivor of violent crime and a proud citizen, I feel it is my duty to share my story so that we can make this country a safer place by utilizing the technology we have at our disposal.

When I was 20 years old, I was kidnapped while walking home to my apartment in New York City. This stranger, a man I had never met before, violently raped, sodomized and robbed me at gunpoint. When I finally escaped and thankfully found myself in my apartment, my roommate insisted that I go to the hospital for a rape kit. The medical team at the hospital was aware of the fact that my body was a crime scene. Great care was taken into collecting the evidence necessary to find my perpetrator. Unbeknownst to me, my rape kit was not immediately tested. My rape kit was sitting on a shelf in a county storage facility collecting dust along with 17,000 other kits for 9 ½ years. This was primarily because forensic DNA and the associated DNA databases were still in their infancy. In 2003, my kit

was finally taken out of storage and tested. In order to stop the clock on the statute of limitations, I testified before a Grand Jury and the DNA in my rape kit was indicted.

Exactly 14 long years to the day I was attacked, the man that threatened to end my life was identified in CODIS. The DNA in my rape kit belonged to a serial offender by the name of Victor Rondon, a man who had made a career out of his criminal activities. Ironically, while being given a citation in Las Vegas for jaywalking, he assaulted the police officer. Rondon was extradited back to New York when it was discovered that he was on parole for a 1993 conviction of the illegal possession of a 9 mm semi automatic weapon. This was the very weapon he used to threaten to kill me with. Although Rondon had committed other crimes including pandering, assault and drug trafficking while on his 14-year nationwide crime spree, this was the first time anyone bothered to upload his DNA into CODIS.

Victor Rondon is currently behind bars thanks to the dedication of law enforcement and prosecutors in Manhattan County, New York. I am humbled to tell you that I testified against him on behalf of the people of New York. As I sat on the witness stand, ready to testify, I was face to face with Victor Rondon for the first time since my attack 15 years earlier. It was as though time stood still and I fainted at the sight of him. I was able to regain my composure because, for the first time, I felt empowered to set things right. My testimony supplemented the DNA evidence, putting this violent criminal behind bars until 2057, where he can no longer be a burden on law enforcement and society. Time MATTERS.

I am not a law enforcement professional, nor a scientist. I do not possess a law degree, and cannot speak to the specific language or provisions in H.R. 320. What I can tell you, as a survivor of sexual assault, is that DNA testing is essential. And time matters. For nearly 15 years I was on a constant state of high alert knowing that this violent criminal was walking the streets. During those years, I felt helpless and guilty for not being able to put this monster behind bars, fully aware that he was likely harming others.

In honor of those who helped bring justice into my life, I decided to dedicate my time to making certain that every assailant is brought to justice. Public safety has become my primary focus, both personally and professionally. For the last four years, I have been directly involved with nationwide efforts to address the thousands of rape kits that are being found in police evidence rooms throughout the country. These kits sit in the quiet darkness, alone and forgotten – gathering dust and marking time, as the statute of limitations slowly tolls for some of the cases. Thanks to the support of Congress, we have new hope of addressing those rape kits. Chairman Sensenbrenner was the original sponsor of the Justice For All Act of 2004 which first authorized the Debbie Smith DNA Backlog Elimination Act (P.L. 108-405). The Debbie Smith Act provides much needed resources to our nation's forensic crime laboratories as they struggle to keep up with the important work of DNA analysis, including rape kits. I thank you for this support. I also thank you for the overwhelming, bipartisan support that Congress has provided to the President's Sexual Assault Kit Initiative. This appropriations program, aimed at assisting jurisdictions with development of community responses to unprecedeted backlogs of

untested rape kits, was amended on the House floor to be \$41 million, thanks to an amendment from Judiciary Committee member, Representative Cohen – and another amendment by Rep. Cohen for next year's appropriations has again increased this amount to \$45 million. Words cannot express how important it is to survivors to know that our elected officials in Washington care, and I again want to thank you for your attention to this matter.

But today I am here to talk about the other side of the DNA database system, and crucial new technologies that may reduce the amount of time needed to bring answers to victims of crime. As we make such strong strides to reducing the backlog of untested rape kits, it is important that we not forget that a database full of evidence only has limited value. This evidence must be matched against a perpetrator. To this end, the FBI has established, with congressional authority, the CODIS database, which includes DNA profiles of persons convicted and arrested for crimes, as state laws allow. Delays in analyzing, entering and searching offender profiles against the database of DNA evidence will result in missed opportunities to identify criminals, including rapists. I am living proof of this.

One of a survivor's greatest fears is that the rapist will return or will harm others. Until they are arrested and locked away for their crime, they are free to create additional victims and burden law enforcement and taxpayers. If we have the technology available to identify these perpetrators the FIRST time that they come into law enforcement custody – it is imperative that we do so. It is the responsible thing to do for the safety of the general public. Checking CODIS for possible matches is important if we intend to maximize the value of the DNA evidence that is so painstakingly collected from the bodies of victims.

I am humbled to see this group of criminal justice professionals here today. It gives me hope. I have so much respect for the leadership that the FBI has provided through the operation of CODIS and its development of related quality standards. I owe them my life. I have often heard DNA called the "gold standard" of forensic science, and it is because of their hard work and attention to detail that this is the case. As the process for realizing the potential of RAPID DNA technology moves forward, I know we will be mindful of not rushing a technology ahead of stringent quality standards. Certainly, the FBI is working on this, and I sincerely hope that Congress will ensure that the important work of these groups can continue. I hope that the FBI and its partners in the forensic community will work with all due speed to develop these standards. The important progress being made at jurisdictions throughout the country on rape kit backlogs, through programs such as the Debbie Smith Act and the Sexual Assault Kit Initiative, must not be impeded.

Catching rapists and other repeat violent criminals matters. It matters to victims of crime who still await justice, and it matters to those unsuspecting citizens who may be tomorrow's victims. Laboratories in this country still define a "backlog" as anything older than 30 days. And as a victim of rape, I can tell you that 30 days is still a long time to wait. We should not be satisfied with a backlog of 30 days, not when this definition has been static for so many years. We should do better. We owe to the people. We CAN do better. And with RAPID, we can.

I am grateful for the opportunity to share my experiences on behalf of survivors of violent crimes.

---

**Mr. SENSENBRENNER.** Thank you for your very moving testimony.

We will now have questioning of the witnesses under the 5-minute rule. The Chair will withhold his questions to see if we have time at the end.

The gentleman from Virginia, Mr. Goodlatte, is recognized first.

**Mr. GOODLATTE.** Thank you, Mr. Chairman. Thank you for holding this hearing and for introducing H.R. 320, the Rapid DNA Act. I'll submit my opening statement for the record as requested, but I do want the witnesses and the other participants in this hearing to know how important I think it is that we address this issue.

[The prepared statement of Mr. Goodlatte follows:]

**Prepared Statement of the Honorable Bob Goodlatte, a Representative in Congress from the State of Virginia, and Chairman, Committee on the Judiciary**

Thank you Chairman Sensenbrenner for holding this hearing and for introducing H.R. 320, the "Rapid DNA Act."

We work on many important issues at the Judiciary Committee, but there are few issues more important than making sure that innocent arrestees are promptly released and that culpable suspects are not re-released to strike again. Rapid DNA has the potential to do both and, as such, can be an important tool for law enforcement and a key component of this committee's ongoing efforts on criminal justice reform.

Under current technology, it is possible to test the DNA of arrestees as soon as they are in custody, and determine within hours whether they match the DNA profile from the crime scene, or from other, earlier crimes. This technology would also enable police to check the federal DNA database to see if an arrestee matches the DNA profile from previous crimes for which a DNA sample exists, but no known suspect has been identified. Rather than waiting weeks for a DNA sample to be processed and risk releasing a suspect back into the public to potentially re-offend, police would be able to determine at initial booking if the suspect is a person of interest in other crimes.

I look forward to hearing from the FBI about how this technology has progressed, what steps need to be taken to implement this technology, and whether this legislation is necessary to permit the use of this technology. I also understand that we have a member on the panel from an accredited lab that has used Rapid DNA technology in her lab. I look forward to hearing about her experience with the technology as well as hearing about her lab's experience with DNA identification samples.

Finally, I look forward to hearing from Ms. Natasha Alexenko. I know she has been at the forefront of DNA issues as they apply to victims of sexual assault. This committee has worked tirelessly to fund rape kit testing to reduce the backlog, yet to the frustration of everyone on this committee, the backlog still remains. This is unacceptable. While Rapid DNA cannot be used at this time for forensic analysis, such as rape kits, I believe that using Rapid DNA for identification purposes could help clear up state labs to focus their efforts on forensic analysis, including rape kits testing.

Thank you all for your time in appearing before us to discuss this important issue, and for your insight on this technology.

**Mr. GOODLATTE.** Ms. Wolf, let me start with you. Can you speak about the average turnaround time in your office for DNA identification samples versus forensic samples, including how long does each sample take to actually analyze, and do you know what those numbers are like on a national basis?

**Ms. WOLF.** Thank you, Mr. Goodlatte. That's a very interesting question that you've proposed, and it's one that we deliberate over at great length in the forensic science community. And many of our members participate in the FORESIGHT study I mentioned in my

opening remarks where we partner with the West Virginia University to look at those very issues.

Within the Phoenix Police Department laboratory, we are not a databasing laboratory which is responsible for analyzing arrestee or offender samples, and so that's a different question than comparing it to the analysis of forensic samples. And so I'll answer your question in a general nature for the technology that we have available for databasing.

Typically the platform that we use is called an ABI 3500 xL, which has the capability of processing 24 samples in one injection. If you use a direct amplification kit, which allows us to increase the efficiency or allows us to speed up the time line in which we can process those database samples or reference standards, that run of 24 samples takes about 45 minutes. The data has to be taken off the system, and if you're utilizing an expert interpretation software system, then you can create or review those profiles and create an entry into the CODIS database.

So if we look at a comparison between the technology of Rapid DNA to existing functionality of systems that are already NDIS approved, an ABI 3500 has the capability in a full run to run about 90 samples, and then you add on controls and standards. That would take about 7 to 8 hours utilizing direct amplification, review using an expert system software—

Mr. GOODLATTE. I'm going to cut you short. Would this legislation help to speed this up a lot?

Ms. WOLF. Well, comparing 90 samples utilizing Rapid DNA would take almost 27 hours. Processing it using a traditional existing technology would take 7 to 8 hours. So the limitation with the Rapid DNA is that you can only run five samples at a time, whereas on current technology we can run 24 samples at a time. To process 90 samples utilizing Rapid would take 27 hours. Using existing technology would take 7 to 8. Same result.

Mr. GOODLATTE. So do you think that this is a good thing for people to have the option here or not?

Ms. WOLF. It depends on your goal. The advantage that Rapid DNA has is that you have that answer while the person is still in the booking station. With traditional databasing, there is a delay because you have to transport the sample from point of collection to a laboratory for analysis.

Mr. GOODLATTE. Okay. Let me interrupt. I have a couple questions for Ms. Hess and Ms. Alexenko.

Ms. Hess, is this bill likely to change the amount of DNA testing going on or just the speed and source of that testing?

Ms. HESS. Yes, sir. Actually right now we see the efficiencies in the speed of the testing, not in the amount. The amount of testing clearly depends on how the States have enacted laws as to whether they are drawing from convicted offenders or arrestees, individuals charged or not charged with crimes, but arrested. So the amount doesn't change, but the speed will.

Mr. GOODLATTE. And, Ms. Alexenko, it is good to see you again, and I am very pleased that you keep coming back to this Committee to stand up for this very important thing. And you were very helpful to us with the Debbie Smith reauthorization, and I'm glad to have you back here today as well.

From your perspective, are we making progress on the rape kit backlog problem?

Ms. ALEXENKO. You know, I really have come to a recent moment of clarity, and really the rape kit backlog is really a symptom of a bigger disease. And certainly we're making progress. There's just been so much—the reauthorization of Debbie Smith, the 41 million—I mean, it is amazing the commitment our leaders are showing with different legislation.

We still have a long way to go. I think that a lot more understanding needs to be made on criminals, on how important it is to get these rape kits tested. And I think it really needs a shift, a paradigm shift, in the understanding of the necessity of this technology.

Mr. GOODLATTE. Well, thank you. And I hope that you keep working with us so we can see that shift take place.

Mr. Chairman, thank you very much. I yield back.

Mr. SENSENBRENNER. Thank you.

The gentleman from Michigan, Mr. Conyers.

Mr. CONYERS. Thank you, Mr. Chairman.

I want to begin by thanking my colleague, Sheila Jackson Lee, for having a moment of silence in connection with the tragedy that just occurred, and I'm grateful to her for that.

This is an amazing set of witnesses here. And I'm trying to determine after the few responses that have been given so far whether we're moving ahead or just merely providing options. And I think I'll start with Ms. Wolf.

What is your view, is this just something we've got to find out if it works better and is more efficient and we're at a preliminary stage of development where we're not really sure yet?

Ms. WOLF. It's very early on in the testing phase. We have commercial products that are available for evaluation, and many of our members are currently looking at them.

One of our members that probably has the most mature program is from the Arizona Department of Public Safety, and they began working with a program in 2013 and developed two different types of initiatives. One was an officer field testing program and another to test arresting offender samples within their laboratory. They were able to successfully validate the program, and it is operational currently.

The spectrum, however, is wide, and we have other members that are currently in the process of trying to complete a validation study in which they have experienced challenges in the completion of those studies. And some of the issues that they have found with the technology are unacceptable failure rates and precision concerns. But they are working very closely with the vendors to overcome those challenges and expect to be successful in completing the validation studies.

We fully expect that the technology is promising, has full potential, and will continue to improve so that it can be fully operational and provide the best assistance to the criminal justice system as possible.

Mr. CONYERS. So it's a good beginning we're off to.

Ms. Alexenko, your testimony, of course, is gripping whenever it's given by yourself. What do you think right now candidly about the

Rapid DNA testing? Do you have hopes for it, or do you have some secret reservations about it? Please tell us.

Ms. ALEXENKO. Certainly I think that it's a step in a good direction. I don't necessarily think that this is going to solve the rape kit backlog per se. But as was mentioned earlier, I mean, we have an opportunity to quickly identify someone, an offender's DNA very quickly, and I think that is so important. In my case it took 15 years for someone to upload my perpetrator's DNA. Rapid gives us the ability as they are housed to immediately, as was mentioned earlier, instead of going to a laboratory, you get that result immediately up into CODIS and see if there's a match.

Mr. CONYERS. Thank you.

Ms. ALEXENKO. So I think it's important.

Mr. CONYERS. Thank you so much.

Ms. Hess, with your background with the FBI, where do you think the future lies, and what does it have in store for us with the Rapid DNA machines?

Ms. HESS. Yes, sir. I would say that this has tremendous potential, and certainly from the perspective of being able to take this technology and take it out of the laboratory into a booking station. But with that comes a lot of responsibility, as was previously outlined, so that any officer would be able to use this equipment to the standards that are currently employed by the forensic laboratories.

Mr. CONYERS. Well, I thank you all. I think this is an important hearing. And I will look forward to seeing some improvement in this.

I presume DNA machines are admissible as evidence in criminal trials. Is there any question about that?

Ms. HESS. I'm sorry. I didn't hear the question.

Mr. CONYERS. Do you agree that Rapid DNA machines can be used as evidence in criminal trials?

Ms. HESS. Currently, as used in forensic laboratories with the human intervention, that would be the case. However, they are not yet mature enough to be used independently without that human intervention. But that is the goal.

Mr. CONYERS. Okay. Thank you very much, Mr. Chairman.

Mr. SENSENBRENNER. The gentleman's time has expired.

I have noticed that we are in for at least two votes on the floor, which should last 45 minutes. Let me inquire if anybody wishes to come back and ask questions after the votes are over with, which would probably be around 11:30.

Mr. CHABOT. I can get them in now if that's okay.

Mr. SENSENBRENNER. Pardon?

Mr. CHABOT. Couldn't we get our questions in before we leave, Mr. Chairman?

Mr. SENSENBRENNER. If you are quick, because I would like to leave by the time of the second bell, and the gentlewoman from Texas wants to do it as well.

Mr. CHABOT. Okay. I'll try to be quick.

Mr. SENSENBRENNER. Okay. The gentleman is recognized.

Mr. CHABOT. Thank you. I would like to reiterate the comments of my distinguished colleague from Michigan that we thank Ms. Jackson Lee for offering a moment of silence. A horrific, horrific

event that took place. Although I wasn't here for the moment of silence, I appreciate that. I'd like to express that.

Ms. Hess, is there a current number of total outstanding rape kits nationally, approximate? And if so, do you know what the number is?

Ms. HESS. Yes, sir. So as was previously mentioned, there are thousands of backlogged sexual assault kits across the Nation.

Mr. CHABOT. Thousands, did you say?

Ms. HESS. Yes.

Mr. CHABOT. That's a pretty vague number really. I think you just got a sheet there?

Ms. HESS. We don't know the exact number at this time, but I can get that information.

Mr. CHABOT. Okay. That's fine. Is there a State-by-State breakdown that's available? If you don't have it, is there somewhere we could get access to something like that? Like, I would like to know what Ohio is since that's my State.

Ms. HESS. I believe we could get that information.

Mr. CHABOT. Okay, if we could get that.

Mr. SENSENBRENNER. Without objection, it will be included in the record.

Mr. CHABOT. I appreciate that. Thank you.

Ms. Wolf, you mention in your testimony that several of your members are currently participating in pilot programs and validation studies to develop best practices for the widespread deployment of these systems. Could you share briefly any progress that you've reached at this point. And, again, kind of brief.

Ms. WOLF. Certainly. Our membership, as I mentioned during my opening remarks, was not only involved in the development of the technology, but is currently working to evaluate how well it can work in an operational setting.

And so, as I mentioned, one of the most mature programs that our members are working on is out of the Arizona Department of Public Safety's program that they began working on in 2013. They've completed a validation study of the instrumentation and have initiated two different types of programs. One is with a field officer testing program, and another is with processing arresting offender samples within a crime laboratory setting, including that human intervention part of it, before the profiles are uploaded to CODIS.

We have other members that have been working on it since 2014. The California Department of Justice is currently working to complete their validation study of their programs. They have encountered some challenges, but they do anticipate overcoming those challenges. But, again, those challenges go back to unacceptable failure rates of the runs and as well as precision concerns during the allele calls.

Mr. CHABOT. Okay. If I can cut you off there. Thank you, i appreciate that, because I'm trying to be quick.

Ms. Alexenko, thank you for your bravery in stepping forth on this issue and trying to help others that may be in similar circumstances. Thank you very much for that.

How did you learn that the rape kit was sitting there untested for 9½ years?

Ms. ALEXENKO. Well, certainly I think things are different now, but I didn't discover until 2003, and I just, frankly, didn't understand it. I was running under the assumption that, of course, my rape kit was tested.

Mr. CHABOT. Who told you? I mean, how did you learn?

Ms. ALEXENKO. The prosecutor in the Manhattan County Attorney's Office called me and told me: We're testing your kit.

Mr. CHABOT. How long was that after the event itself?

Ms. ALEXENKO. It was 9½ years.

Mr. CHABOT. Nine and a half years.

Ms. ALEXENKO. So basically to stop the clock on the statute of limitations, we had to do a John Doe indictment on the DNA.

Mr. CHABOT. Was this criminal, was he ever in custody during that period of time?

Ms. ALEXENKO. Many times, yes.

Mr. CHABOT. So logically, if they had tested it and they had him in custody, perhaps—

Ms. ALEXENKO. Absolutely, absolutely.

Mr. CHABOT. Okay. Thank you.

I yield back, Mr. Chairman.

Mr. SENSENBRENNER. The gentlewoman from Texas.

Ms. JACKSON LEE. Mr. Chairman, thank you for your courtesies.

And to the witnesses, let me thank you. I think this is powerful testimony for the importance of what we're trying to do.

And, Ms. Alexenko, let me thank you for being a friend in your time of need, and that is very important because there are so many that have the needs that you're expressing, but they cannot come. So let me thank you very much.

Let me quickly go to Ms. Hess. And I want to put into the record again, as of 2013, Texas officials estimated there to be 20,000 untested kits statewide. Out of the 20,000 untested kits, 6,663 were in the greater Houston area. We got a \$4.4 million Federal grant that I worked with the city to get, and now, as of February of this year, Houston completed testing all 6,663. I venture to say many had been sitting there for a long time.

So I want to go to Ms. Hess. As I understand the legislation, it is to integrate this Rapid DNA testing into the system to possibly allow that technology to be used overall so that labs can spend their time moving forward on the violent murders and the rapes and other elements. Does that fit partly, in your understanding?

Ms. HESS. Ma'am, I'd like to qualify that first by saying that, as has been stated here, we are really focusing on known samples, on reference samples. So we are focusing on arrestees, we're focusing on reference samples, as opposed to crime scene or sexual assault kit types.

Ms. JACKSON LEE. Let me just, with the Rapid DNA technology, you're saying you're focusing on arrest situations. Is that what I understand?

Ms. HESS. That's correct.

Ms. JACKSON LEE. And that's what's I'm saying. You're focusing on arrests and other needs for DNA. The lab then can move forward on testing these rape kits and murder, and that's what I'm trying to understand from you. Is that my understanding?

Ms. HESS. Yes, ma'am, I understand. So the vision is that once these kits, these instruments, are ready to be deployed in booking stations, that that will greatly reduce the time and the resources needed to devote laboratory time toward the processing of arrestee or reference samples. So those resources might eventually be used and/or redirected in the laboratories to address the crime scene type of a forensic sample.

Ms. JACKSON LEE. That's what I was trying to clarify for this bill. And just one last thing. The FBI Quality Assurance, you believe that you could have that quality assurance for this new technology?

Ms. HESS. The Quality Assurance Standards for the known or reference samples, yes.

Ms. JACKSON LEE. Under this Rapid DNA testing, you could have in place those quality standards?

Ms. HESS. Yes. We currently do have actually Quality Assurance Standards. An addendum actually was in place since December for the laboratory, accredited laboratory environment. And, yes, that would be our goal for reference samples, correct.

Ms. JACKSON LEE. Thank you so very much. Let me finish my last two questions.

Let me go to Ms. Alexenko. What should be the goal in terms of the time for analyzing sexual assault kits? What more can we do? Nine and a half years, it's unspeakable. But what should we be looking to?

Ms. ALEXENKO. Well, at present we've been saying 30 days, within 30 days, but to be frank with you, it's been way too long that we've been saying 30 days.

Ms. JACKSON LEE. I'm with you.

Ms. ALEXENKO. I really feel the turnaround time needs to be expedited. It's too long to wait. A criminal can certainly flee the area, flee the State. And in some cases, if they go from one State to another, they may as well have gone to another country, there's that little communication between the States.

So the sooner the better. I would like to see an ideal world, I don't know if everyone will agree with me, where it's like a quick turnaround time, 1 day. Why not?

Ms. JACKSON LEE. Thank you. We listen to you very keenly.

Ms. Wolf, let me thank you for your expertise. And so this is just a simple question. You gave us the hours, but I just want to hear from you as a professional that if time could be spent on the violent, the sexual predators, and others, and this system can work, would you as a lab professional be willing to have that system in place?

Ms. WOLF. You ask a very good question, Ms. Jackson Lee, and it's an interesting answer because not all accredited laboratories, while they may participate in CODIS, process known standards from arrestees and offenders. Those are databasing laboratories. And in particular my laboratory does not.

And so the utilization of Rapid DNA, while it would aid investigative information and help further investigations, it would not increase capacity for my laboratory. My laboratory is solely dedicated to processing casework and forensic samples, crime scene samples. And so while there is value in the technology, it certainly would not increase capacity within my laboratory.

Ms. JACKSON LEE. Let me thank you very much. You have given us factual information. We know that it would help in many instances. The way your lab is framed, it would continue to do its work as it is, but it could help in other areas. Is that my understanding of your statement?

Ms. WOLF. It can certainly provide information that can further investigations very quickly by providing that information while the individual is still in custody. And so it has value. The issue is very complex, and so there are multiple facets that need to be addressed. And really what we are looking for is to be able to increase capacity both during the booking process, as well as on the analytical side in laboratories that are processing casework samples.

Ms. JACKSON LEE. With that, Mr. Chairman, thank you so very much to the witnesses. With that, Mr. Chairman, I yield back.

Mr. GOODLATTE [presiding]. I want to thank the gentlewoman for her very active interest in this matter.

And I want to assure all the witnesses that we are very dedicated to searching for the right answers for how to get accurate information as quickly as possible and to work through these backlogs as well, but not to delay getting action on new cases as they come in. So having a system where state and local law enforcement and Federal law enforcement are enabled to do both is what our goal is, and if you will work with us, we would like to move ahead.

So thank you all for testifying today.

Ms. JACKSON LEE. Mr. Chairman, would you yield for a moment. I just want to put a sentence on the record.

I have been working on a bill dealing with the DNA focusing of those who perpetrate violent acts against children, and I hope that we will continue in a discussion with Mr. Sensenbrenner, with this Judiciary Committee. This may be a vehicle where we can combine some of that interest, because there's some data talking about how many times a day a child is sexually violated and/or subjected to a violent crime.

With that, Mr. Chairman, I yield back.

Mr. GOODLATTE. I thank the gentlewoman.

That concludes today's hearing, and I thank all the witnesses for coming. I know some of you came a long way.

And without objection, all Members will have 5 legislative days to submit additional written questions for the witnesses or additional materials for the record.

And this hearing is adjourned.

[Whereupon, at 10:53 a.m., the Subcommittee was adjourned.]

## A P P E N D I X

---

### MATERIAL SUBMITTED FOR THE HEARING RECORD

**Prepared Statement of the Honorable F. James Sensenbrenner, Jr., a Representative in Congress from the State of Wisconsin, and Chairman, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations**

Good morning, and I would like to welcome everyone to this morning's hearing on H.R. 320, the "Rapid DNA Act." I authored this legislation to establish a system for integration of Rapid DNA instruments into Federal law.

Rapid DNA is a promising new technology that would allow for the almost immediate DNA analysis of an arrestee. Unlike standard DNA practices which require sending DNA samples from arrestees out to labs with a result taking weeks to ascertain, Rapid DNA results take only a few hours and can be done right at the booking station. Like fingerprinting, photographing, and other booking procedures which at the time were novel but have now become routine, Rapid DNA will soon be standard procedure in police stations throughout the country.

There is only one problem with Rapid DNA technology— Federal Law. Our law, written in 1994 when DNA technology was still in its infancy, prohibits the use of Rapid DNA technology in booking stations. This is not because of any limitation in Rapid DNA technology, but simply because at the time, Rapid DNA technology was not even contemplated. Like the Record, leading to the Cassette, leading to the MP3 player, technology moves quicker than we can legislate. Now is the time to change the law to permit Rapid DNA technology.

Rapid DNA machines are compact, approximately the size of copy machines, and can provide a DNA analysis from a cheek swab sample of an arrestee within 2 hours. This has two profound implications. First, arrestees may be exonerated of crimes in 2 hours, rather than waiting for up to 72 hours for release, or months for more standard DNA testing. Second, those arrested for a crime, can quickly be matched to other unsolved crimes where there was forensic evidence left at the crime scene, but for which there is no identified suspect.

Finally, I believe that Rapid DNA can reduce the backlog we see in forensic DNA analysis. This committee has spent a great deal of time and significant work to try and reduce the forensic DNA backlog, especially in so called 'rape kits.' Rapid DNA could not at this time be used for Rape Kits, but the implementation of Rapid DNA will allow forensics labs to focus on forensic samples, not on identification samples which can easily be handled by Rapid DNA machines. I hope this will reduce the Rape Kit backlog which will also prevent future rapes from happening.

It is time for Congress to discuss this technology and its usage, and how to implement Rapid DNA in a manner that aids law enforcement with their DNA backlogs. The time is now to reform and modernize this crucial component of a criminal investigation, and it is time for our Federal Government to catch up to technological advancements.

---

**Prepared Statement of the Honorable John Conyers, Jr., a Representative in Congress from the State of Michigan, and Ranking Member, Committee on the Judiciary**

Today's hearing focuses on H.R. 320, the "Rapid DNA Act," a bill that provides for the use of machines to quickly analyze DNA samples of arrestees in police custody to determine if they match DNA samples related to unsolved crimes.

I support this proposal, which allows these machines to do work that previously had to be performed in a more time-consuming matter by forensic labs, whose resources are better allocated towards eliminating the backlog of DNA samples already collected and sitting in warehouses. I have several observations to make about how reducing this backlog will serve the goals of all concerned.

First, although this Committee worked to reauthorize the Debbie Smith Act last Congress, there is still an unacceptable backlog of DNA samples waiting to be tested. National estimates repeatedly highlight that hundreds of thousands of DNA samples go untested each year.

As the benefits of DNA technology have become more widely understood and available, police departments and federal law enforcement have increased their collection of DNA samples.

Consequently, the backlog continues to be a persistent problem, which hinders our first goal, identifying the guilty. The longer it takes to identify a violent offender, the greater the risk posed to future victims.

For example, one of our witnesses today, Ms. Natasha Alexenko, who heads Natasha's Justice Project, will describe how her attacker was ultimately caught and proven guilty, using DNA evidence, 14 years after she suffered unthinkable abuse.

Rapid DNA plays a part by allowing for quicker data entry, which facilitates quicker matches of offenders to evidence collected at crime scenes. This decreases the opportunity for violent criminals to pose continuing threats to our communities.

Also, the DNA backlog undermines the use of DNA testing to eliminate innocent persons as suspects. If law enforcement agencies cannot effectively rely on the timely use of DNA technology, they waste scarce investigative resources pursuing innocent people.

It is important to note that, when an innocent person is accused of committing criminal offenses his or her life can become a frightening existence.

In addition to the real threat of imprisonment, an innocent person is at risk of losing his job, home, as well as the support of family and friends.

Finally, the backlog compromises our ability to exonerate the wrongfully convicted. To-date, more than 300 people, including 20 who served time on death row, have been exonerated as a result of DNA testing.

The good news is that reform is underway. For example, in major cities throughout the United States we are seeing sexual assault kits being tested at increased rates.

For instance, after Detroit discovered 11,341 untested rape kits within its jurisdiction, the city of Detroit made a commitment to test every single kit.

As of June 2015, that commitment has resulted in 1,467 DNA matches and the identification of 326 potential serial rapists. Additionally, the Wayne County Prosecutor's Office has successfully obtained 15 convictions; while six other suspects currently await trial. DNA from the tested rape kits in Detroit have been linked to crimes committed in 31 states and the District of Columbia. I know that the Prosecutor is making every effort to follow up on these DNA matches in order to hold perpetrators accountable and vindicate the interests of the victims.

The authorization to use Rapid DNA technology will therefore lead to a number of important benefits for law enforcement, crime victims, and the innocent. I look forward to the testimony of our witnesses who will provide more details about the bill and these benefits.

